

**PREPARED DIRECT TESTIMONY  
OF  
KEVIN R. LARGENT  
ON BEHALF OF  
CENTRAL ILLINOIS LIGHT COMPANY  
DOCKET NO. 00-0724**

ILLINOIS  
COMMERCE COMMISSION  
APR 2 10 49 AM '01  
CHIEF CLERK'S OFFICE

1 Q1: Please state your name and business address.

2 A1: My name is Kevin R. Largent, and my business address is 300 Liberty Street, Peoria,  
3 Illinois 61602.

4 Q2: What is your position with Central Illinois Light Company?

5 A2: I am the Financial Manager at Central Illinois Light Company's Duck Creek Station.

6 Q3: What is your educational background and work experience?

7 A3: I am a graduate of Illinois State University with a Bachelor of Science degree in  
8 Accounting and a graduate of Bradley University with a Masters degree in Business  
9 Administration. I am a Certified Public Accountant. I have worked in many areas within  
10 CILCO's Accounting Department including General Accounting, Plant Accounting and  
11 Tax Accounting while most recently being assigned to CILCO's Duck Creek Station.

12 Q4: Please explain the purpose and scope of your testimony in this proceeding.

13 A4: The purpose of my testimony is to describe CILCO's long term coal procurement  
14 contract at its Duck Creek power plant, in response to the Commission's Order in Docket  
15 No. 00-0724.

16 Q5: What long-term coal contracts did CILCO have in effect for 2000 at its Duck Creek  
17 Station?

18 A5: The supply of high sulfur Illinois coal for Duck Creek Station was originally under a

19 twenty-year agreement with Freeman United, which was to expire at the end of 1997.  
20 During the last sixteen years of that contract, the period from 1982 through 1997, CILCO  
21 was required to purchase up to 2,000,000 tons annually. However, as a result of the  
22 cancellation of CILCO's Duck Creek Generating Unit #2, those contract quantities  
23 exceeded CILCO's requirements for high sulfur coal by approximately 1,000,000 tons  
24 annually. Temporary amendments to the Freeman contract enabled CILCO to reduce or  
25 defer its excess purchase obligations for the period from 1982 through 1986. A  
26 permanent amendment was negotiated in December 1986. New contract terms now  
27 provide for a total of up to 1,000,000 tons annually, approximating deliveries with  
28 CILCO's requirements at the Duck Creek Station. Under the renegotiated contract,  
29 CILCO also has the flexibility to reduce the annual purchases to as low as 500,000 tons,  
30 provided CILCO pays the profit factor on the full 1,000,000 tons. If it becomes cost-  
31 effective to do so, CILCO will, of course, reduce its purchases below 1,000,000 tons  
32 annually. The contract term runs through 2010. During 2000, CILCO also purchased  
33 spot high sulfur coal for the Duck Creek Station to meet requirements in excess of the  
34 Freeman contract.

35 Q6: What are Freeman's contract obligations with respect to the cost of coal produced for  
36 CILCO?

37 A6: The contract contains a best efforts clause, which requires Freeman to use its best efforts  
38 to obtain equipment, materials and services at the lowest available cost commensurate  
39 with efficient and safe mining practices, to operate the mine in a manner commensurate

40 with good and economical business practices, and to incur only such costs as are  
41 reasonable and proper in connection with cost-plus type agreements for deep mining of  
42 coal in Central Illinois mines. The contract also gives CILCO the right to audit  
43 Freeman's operations and to examine Freeman's records and data pertinent to the  
44 determination of any costs incurred. CILCO uses outside auditors experienced in the  
45 analysis of fuel contracts to review Freeman's costs on an annual basis.

46 Q7: What actions has CILCO taken to ensure that Freeman's performance in operating the  
47 mine met contract requirements?

48 A7: CILCO initiated an arbitration proceeding against Freeman in 1997, alleging breach by  
49 Freeman of its obligations under the best efforts clause of the contract. CILCO sought  
50 damages for the years 1993 through 1997. After the arbitration was filed, CILCO  
51 separately notified Freeman of Freeman's continuing defaults under the contract and  
52 CILCO's intent to pursue all contract remedies including termination of the contract if  
53 Freeman failed to cure these defaults. Subsequently in 1997, CILCO notified Freeman  
54 that CILCO was exercising its termination rights due to Freeman's failure to cure its  
55 continuing contract defaults. Following that notice, CILCO and Freeman entered into  
56 a standstill agreement, under which CILCO and Freeman agreed to allow the arbitration  
57 panel to resolve the issues related to contract termination. CILCO agreed to continue to  
58 purchase coal from Freeman until the arbitration panel ruled with regard to the  
59 termination. Further, CILCO specifically reserved all its rights under the contract with  
60 respect to any breaches by Freeman after the 1993-1997 time period covered by the

61 arbitration.

62 Q8: What was the outcome of this arbitration?

63 A8: In a decision served upon CILCO in August of 2000, CILCO was awarded \$1,950,000  
 64 in damages for breach of contract. In addition, Freeman was required to refund  
 65 approximately \$4,132,000 of attorneys' fees and litigation expenses that were improperly  
 66 charged to CILCO through the contract. Freeman was also denied recovery under its  
 67 counterclaim against CILCO for approximately \$2,000,000 for alleged btu premiums  
 68 related to delivered coal. These arbitration awards, net of CILCO's attorneys' fees and  
 69 litigation expenses, were reflected as a reduction in coal inventory prices in early 2001.  
 70 The arbitration panel denied CILCO's request to terminate the contract.

71 Q9: Mr. Largent, is CILCO presently involved in any other litigation with Freeman?

72 A9: Yes. A second arbitration demand filed on March 24, 1998 by CILCO was pursued in  
 73 1999. In this arbitration claim, CILCO asserts that Freeman improperly shifted to  
 74 CILCO approximately \$600,000 in attorney's fees and other litigation expenses that  
 75 Freeman incurred during a 1995-96 arbitration with CILCO. The arbitration hearing was  
 76 held on November 8, 1999.

77 Q10: What was the outcome of this arbitration?

78 A10: The arbitration panel awarded \$600,000 to CILCO. Freeman appealed this award in  
 79 Circuit Court alleging that the arbitration panel's ruling exceeded its authority. The  
 80 Circuit Court has remanded this decision to the arbitration panel.

81 Q11: Mr. Largent, is CILCO presently involved in any other litigation with Freeman?

82 A11: Yes. A third arbitration demand was filed on October 24, 2000 by CILCO. In this  
83 arbitration claim, CILCO asserted that Freeman failed to keep and perform its prudent  
84 mining obligations as required by the parties' contract, for the time period 1998 through  
85 2000. CILCO is seeking damages in this arbitration. On October 24, 2000, CILCO  
86 notified Freeman of Freeman's continuing defaults under the contract and CILCO's  
87 intent to pursue all contract remedies including termination of the contract if Freeman  
88 failed to cure these defaults. On December 23, 2000, CILCO notified Freeman that  
89 CILCO would exercise its termination rights as of March 23, 2001, if Freeman failed to  
90 cure its continuing contract defaults. Under date of March 9, 2001, Freeman represented  
91 in writing (See CILCO Exhibit 5.1) to CILCO that Freeman had cured its contractual  
92 defaults. Freeman listed seven specific operating improvements at the mine. These  
93 improvements were similar to the ones proposed by CILCO in the previous arbitration.  
94 Freeman represented that these operating improvements reduced the February 2001  
95 production cost at the mine by approximately 30%. Based on these representations,  
96 CILCO concluded that Freeman had cured its defaults under the contract and CILCO  
97 withdrew its notice of termination that would have been effective as of March 23, 2001.  
98 Again, however, CILCO retained all of its rights under the contract. CILCO continues  
99 to pursue the arbitration claims filed in October of 2000, because those claims relate to  
100 time periods subsequent to the time period covered by the arbitration decided in 2000 and  
101 prior to Freeman's operational improvements. CILCO is not seeking termination of the  
102 contract in the current arbitration proceeding.

103 Q12: What will be the price of coal delivered by Freeman in the future?

104 A12: Based on Freeman's representations, the price of coal should be reduced by  
105 approximately 30%.

106 Q13: Does this complete your prepared direct testimony?

107 A13: Yes, it does.